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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte PETER ZATLOUKAL, G. ERIC ENGSTROM, PAUL R. NASH,
and DAVID L. PIKE

Appeal 2007-4501
Application 10/000,170
Technology Center 2100

Decided: March 31, 2008

Before ALLEN R. MACDONALD, JAY P. LUCAS, and STEPHEN C.
SIU, *Administrative Patent Judges*.

SIU, *Administrative Patent Judge*.

DECISION ON APPEAL

I. STATEMENT OF THE CASE

Appellants appeal under 35 U.S.C. § 134(a) from the Examiner's Final Rejection of claims 1-77. We have jurisdiction under 35 U.S.C. § 6(b). We affirm.

A. INVENTION

1 The invention at issue involves attachment of eligible smart interchangeable covers to a base portion of an electronic apparatus (Spec. 1). Specifically, a base portion of an electronic device authenticates a smart interchangeable cover when the cover is attached to the base portion. The subsequent functions and operations of the base portion are based on the authentication of the smart interchangeable cover (*id. 4*).

B. ILLUSTRATIVE CLAIM

Claim 1, which further illustrates the invention, follows:

1. In a base portion of an electronic apparatus, a method of operation comprising:
 - detecting for presence of a removably attached interchangeable cover;
 - authenticating the removably attached interchangeable cover as an eligible cover; and
 - operating the electronic apparatus, enabling/disabling all or selected functions/features offered by the base portion and the removably attached interchangeable cover in view of whether the removably attached interchangeable cover is authenticated.

C. REJECTIONS

Claims 1, 17-20, 34-36, 52-59, and 73-77 stand rejected under 35 U.S.C. § 102(e) as being unpatentable over U.S. Patent No. 6,747,578 (“Lam”). Claims 2-7, 10, 11, 13-16, 21-26, 29-33, 37-42, 45, 46, 48-51, 60-65, and 68-72 stand rejected under 35 U.S.C. § 103(a) as being unpatentable

over Lam and U.S. Patent No. 5,153,919 (“Reeds”). Claims 8, 9, 12, 27, 28, 43, 44, 47, 66, and 67 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Lam, Reeds and U.S. Patent No. 5,784,463 (“Chen”).

II. CLAIM GROUPING

1 “When multiple claims subject to the same ground of rejection are argued as a group by the appellant, the Board may select a single claim from the group of claims that are argued together to decide the appeal with respect to the group of claims as to the ground of rejection on the basis of the selected claim alone. Notwithstanding any other provision of this paragraph, the failure of the appellant to separately argue claims which the appellant has grouped together shall constitute a waiver of any argument that the Board must consider the patentability of any grouped claim separately.” 37 C.F.R. § 41.37(c)(1)(vii) (2005).¹

Appellant argues claims 1, 17, 18, 34-36, 52, 53, 56-59, and 73-77 as a first group (App. Br. 6-8), claims 19, 20, 54, and 55 as a second group (App. Br. 8), claims 2-7, 10, 11, 14, 21-26, 29, 31, 37-42, 45, 46, 49, 60-65, 68, and 70 as a third group (App. Br. 9), claims 34 and 35 as a fourth group (App. Br. 8), claims 8, 9, 12, 27, 28, 43, 44, 47, 66, and 67 as a fifth group

¹ We cite to the version of the Code of Federal Regulations in effect at the time of the Appeal Brief. The current version includes the same rules.

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(App. Br. 10), claims 13, 30, 48, and 69 as a sixth group (App. Br. 9-10), and claims 15, 16, 32, 33, 50, 51, 71, and 72 as a seventh group (App. Br. 10).

We select claim 1 as the sole claim on which to decide the appeal of the first group, claim 19 as the sole claim on which to decide the appeal of the second group, claim 21 as the sole claim on which to decide the appeal of the third group, claim 34 as the sole claim on which to decide the appeal of the fourth group, claim 8 as the sole claim on which to decide the appeal of the fifth group, claim 13 as the sole claim on which to decide the appeal of the sixth group, and claim 15 as the sole claim on which to decide the appeal of the seventh group.

III. CLAIMS 1, 17, 18, 36, 52, 53, 56-59, AND 73-77

As set forth above, we select claim 1 as the sole claim on which to decide the appeal of the first group. “Rather than reiterate the positions of parties *in toto*, we focus on the issue therebetween.” *Ex Parte Filatov*, No. 2006-1160, 2007 WL 1317144, at *2 (BPAI 2007).

Appellants assert that “Lam fails to disclose . . . any sort of eligibility authentication process to determine whether the detected faceplate is eligible for use with the portable computer system” (App. Br. 7).

The Examiner finds that Lam discloses identifying a “functional faceplate by accepting the identification code (as shown in Figure 9 of Lam’s system) as part of the authenticating process” (Ans. 19). Lam discloses that different “faceplates . . . can interchangeably be removed (or) attached to device **100a** depending on the user’s needs” (col. 8, ll. 20-22). The faceplate, via an identification code device, “is able to communicate a code to device **100a** indicating the identity or type of faceplate that it is” (col. 9, ll. 33-35), “e.g., standard PDA type, extended keyboard type, gaming type, GPS type, music type, etc.” (col. 10, ll. 64-66).

We agree with the Examiner that Lam discloses authenticating a cover as an eligible cover as recited in claim 1. “[D]uring examination proceedings, claims are given their broadest reasonable interpretation consistent with the specification.” *In re Hyatt*, 211 F.3d 1367, 1372 (Fed. Cir. 2000). Here, we conclude the Examiner has properly construed the claim terms “authenticating” and “eligible” in accordance with the broadest reasonable interpretation consistent with the Specification. When we look to Appellants’ Specification, we find no express definition of the claim terms “authenticating” or “eligible.” Thus, Appellants’ Specification fails to set forth a definition of the terms with “reasonable, clarity, deliberateness, and precision” that would render the incorporation of such definitions into the claims appropriate (quoting *In re Paulsen*, 30 F.3d 1475, 1480 (Fed. Cir. 1994)).

In the absence of an explicit definition of the term “authenticating,” we use a plain and ordinary meaning of the term to construe the term as “establishing as valid.” *Chef America, Inc. v. Lamb-Weston, Inc.*, 358 F.3d 1371, 1373 (Fed. Cir. 2004) (Ordinary, simple English words whose meaning is clear and unquestionable, absent any indication that their use in a particular context changes their meaning, are construed to mean exactly what they say). Based on this interpretation, we find that Lam discloses establishing a particular faceplate as valid (i.e., “authenticating”) for a particular function “e.g., standard PDA type, extended keyboard type, gaming type, GPS type, music type, etc.” (col. 10, ll. 65-66) by “[u]sing the identification code **450**” (col. 9, l. 37).

Appellants further assert that “nowhere does Lam mention any sort of processing of the identification information to determine whether the faceplate is of the sort considered ‘eligible’” (App. Br. 7).

As set forth above, the Specification fails to provide an explicit definition of the term “eligible.” Therefore, we construe the term “eligible” using a reasonably broad definition based on a plain and ordinary meaning of the term as “entitled or qualified to perform or do.” As set forth above, Lam discloses a particular faceplate as being determined to be qualified to perform a particular function (i.e., “eligible”) based on “the identification code **450**” (col. 8, ll. 20-22 and col. 9, l. 37). Therefore, we are unconvinced by Appellants’ arguments.

It follows that Appellants have failed to demonstrate that the Examiner erred in rejecting claim 1. Therefore, we affirm the rejection of claim 1 and of claims 17, 18, 36, 52, 53, 56-59, and 73-77, which fall therewith.

IV. CLAIMS 19, 20, 54, AND 55

As set forth above, we select claim 19 as the sole claim on which to decide the appeal of the second group.

Appellants argue that “Lam fails to disclose . . . the disabling of features/functions of the base portion in response to the attachment of the faceplate or the failed authentication of the faceplate, as claimed in claims 19-20 and 54-55” (App. Br. 8).

Lam discloses that “faceplates . . . can interchangeably be removed (or) attached to device **100a** depending on the user’s needs” (col. 8, ll. 20-21). Different faceplates have different functions such as “standard PDA type, extended keyboard type, gaming type, GPS type, music type, etc.” (col. 10, ll. 65-66). Also functions are performed by a device based on a corresponding “identification code **450**” of an attached faceplate (col. 9, ll. 32-40). Because a device acquires different functions based on the type of faceplate that is applied, we find that the functions or features that are not associated with a particular attached faceplate are disabled as recited in claim 19. Therefore, we are unpersuaded by Appellants’ arguments.

It follows that Appellants have failed to demonstrate that the Examiner erred in rejecting claim 19. Therefore, we affirm the rejection of claim 19 and of claim 20, 54, and 55, which fall therewith.

V. CLAIMS 2-7, 10, 11, 14, 21-26, 29, 31, 37-42, 45, 46, 49, 60-65, 68,
AND 70

As set forth above, we select claim 21 as the sole claim on which to decide the appeal of the third group.

Appellants argue that “Lam fails to disclose . . . operations of the present invention, as claimed in claims 1, 21, 36, and 59” and “Reeds does not cure the deficiencies of Lam” (App. Br. 9).

As set forth above, we find that Lam discloses the features recited in claim 1. In addition, claim 21 does not recite “authenticating” as argued by Appellants for claim 1. We also do not identify, and Appellants have failed to establish, any deficiencies of Lam.

It follows that Appellants have failed to demonstrate that the Examiner erred in rejecting claim 21. Therefore, we affirm the rejection of claim 2 and of claims 2-7, 10, 11, 14, 22-26, 29, 31, 37-42, 45, 46, 49, 60-65, 68, and 70, which fall therewith.

VI. CLAIMS 34 AND 35

As set forth above, we select claim 34 as the sole claim on which to decide the appeal of the fourth group.

Appellants argue that “for at least the same reasons that claim 21 is not anticipated by Lam, claims 34-35 are also not anticipated by Lam” (App. Br. 8). Because Appellants have failed to establish that the Examiner erred in rejecting claim 21, we are unpersuaded by Appellants’ argument with regard to claim 34.

It follows that Appellants have failed to demonstrate that the Examiner erred in rejecting claim 34. Therefore, we affirm the rejection of claim 34 and of claim 35, which falls therewith.

VII. CLAIMS 8, 9, 12, 27, 28, 43, 44, 47, 66 AND 67

As set forth above, we select claim 8 as the sole claim on which to decide the appeal of the fifth group.

Appellants argue that “Chen does not cure the deficiencies of Lam and Reeds” (App. Br. 10). As set forth above, Appellants failed to establish deficiencies of Lam or Reeds. Therefore, we are unconvinced by Appellants’ arguments.

It follows that Appellants have failed to demonstrate that the Examiner erred in rejecting claim 8. Therefore, we affirm the rejection of claim 8 and of claim 9, 12, 27, 28, 43, 44, 47, 66, and 67, which fall therewith.

VIII. CLAIM 13, 30, 48, AND 69

As set forth above, we select claim 13 as the sole claim on which to decide the appeal of the sixth group.

Appellants argue that “Lam and Reeds do not suggest the use of functions/features of a device seeking authentication as part of an authentication key, as is claimed by claim 13” (App. Br. 9).

Claim 11, from which claim 13 depends, recites “a public signing key corresponding to a private signing key.” The Examiner finds that Reeds discloses creating “a ‘signature’ of a block of d ‘secret’ data words b(i), with the aid of a k-word key x(j) . . . any string that is used for authentication can have a portion thereof used as a key . . . (column 5, lines 26-64 of Reed III)” (Ans. 12-13). Although Appellants assert that Lam and Reeds fail to disclose “an authentication key,” Appellants have failed to establish specific differences between the “key” recited in claim 13 (or claim 11 from which claim 13 depends) and the “key” disclosed by Reeds.

It follows that Appellants have failed to demonstrate that the Examiner erred in rejecting claim 13. Therefore, we affirm the rejection of claim 13, and of claims 30, 48, and 69, which fall therewith.

IX. CLAIM 15, 16, 32, 33, 50, 51, 71, AND 72

As set forth above, we select claim 15 as the sole claim on which to decide the appeal of the seventh group.

Appellants argue that “Lam and Reeds do not suggest generating a second challenge based on the results of the first as is claimed by claim 15” (App. Br. 10). The Examiner finds that “[t]his limitation is met on column 6, lines 37-67 of Reed III and column 1, lines 51-67 through column 2, lines 1-3 and lines 34-40” (Ans. 9-10).

Reeds discloses a service provider supplying “each mobile with its own pair (D,E) of RSA keys, together with F(E) (the encryption of the mobile’s public key E using the provider’s private key F)” (col. 2, ll. 29-32), receiving “(E,F(E))” from the mobile, then, in response, generating “a challenge X, encrypts it with the mobile’s public key E to obtain E(X) which it sends to the mobile” (col. 2, ll. 35-38). Hence, Reeds discloses the service provider transmitting RSA keys (i.e., “first challenge”) to a mobile device, receiving an assertion of the mobile’s identity in response (i.e., a “first response”), then generating a challenge X (i.e., “second challenge” that is based on the “first response”) in response to the assertion of identity (i.e., the “first response”) and sending the challenge X to the mobile device. Although Appellants assert that Reeds fails to disclose that the second challenge is based on the first response as recited in claim 15, Appellants have failed to establish specific differences between the “challenge X,” which is generated based on the first response of Reeds, for example, with the second challenge recited in claim 15.

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It follows that Appellants have failed to demonstrate that the Examiner erred in rejecting claim 15. Therefore, we affirm the rejection of claim 15, and of claims 16, 32, 33, 50, 51, 71, and 72, which fall therewith.

X. DECISION

In summary, the rejection of claims 1-77 under § 103(a) is affirmed.

AFFIRMED

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